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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,850	04/14/2004	Bertram V. Burke	EPC-220U	5510
7590	02/24/2005		EXAMINER KOYAMA, KUMIKO C	
Leo Stanger c/o Bert Burke 34 Navesink Drive Monmouth Beach, NJ 07750			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,850

Applicant(s)

BURKE, BERTRAM V.

Examiner

Kumiko C. Koyama

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities:

Line 2: "the following steps" should be changed to --following steps--.

Line 6: "the merchant's inventory" should be changed to --a merchant's inventory--.

Line 7: "the proxy sale" should be changed to --a proxy sale--.

Line 9: "the merchandise account" should be changed to --a merchandise account--.

Line 10: The Examiner respectfully requests the Applicant to avoid the use of "may be" because it is unclear whether the limitation followed by such phrase is included as part of the claim or not.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Uzo (US Patent Application Publication No. 2003/0061170 A1).

Uzo teaches a method and apparatus for making secure electronic payments. Uzo teaches an anonymous prepaid card issued by the clearing server 12, which is a remote terminal (Page 9, Paragraph [0117], lines 9-10). The card includes has a unique reference number that identifies a record or account within a database and the card must be activated (Page 4, Paragraph [0050], lines 8-15). Such teaching teaches using a remote terminal to activate and issue a card to a customer with an individual account identifier. The anonymous prepaid card is used by a consumer to purchase a token, which is later used to purchase a merchandise at a merchant (Page 7, Paragraph [0088], lines 4-6 and 12-14; Page 1, Paragraph [0007], lines 6-10)). The token purchased is refilled by transferring funds to a token or by cash refill at a merchant to vending machine (Page 7, Paragraph [0090], lines 1-9). Such disclosure teaches customer entering cash value into a remoter terminal operated by the card issuer to purchase a percentage of the merchant's inventory using a proxy method. Uzo also teaches that the clearing server poll the merchant, retrieves the token with the transaction records, and updates its clearing server database. The transaction records are details of transaction conducted by the consumer at the merchant, such as transaction amount (Page 9, Paragraph [0112], lines 10-16). Uzo also teaches a transaction history including detailed records of all the purchase transactions performed with the token (Page 9, Paragraph [0112], lines 19-24). Such teaching teaches that the card issuer completes the proxy sales by calculating and reporting the average historical costs associated with the sale of the merchant's inventory. At the time of purchasing an item (Page 9, Paragraph [0126], lines 2-3), which is at the time the of debiting from the merchandise account, the monetary value on the token is exchanged with a purchased item (Page 10, Paragraph [0131], lines 7-16)).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dethloff et al., U.S. Patent No. 4,968,873, discloses a smart card issuing and receiving apparatus.

Hudson et al., U.S. Patent No. 5,650,978, discloses an off line cash card system and method.

Epstein, U.S. Patent Application Publication No. 2003/0004828, discloses a prepaid card authorization and security system.


Epstein, U.S. Patent Application Publication No. 2003/0105672, discloses a method and apparatus to facilitate payment over a computer network.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 571-272-2394. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2876

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kumiko C. Koyama
February 22, 2005


DIANE I. LEE
PRIMARY EXAMINER